

**01347**

**1991/02/14**

OTR  
MASSEY

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RELEASED INCOMING  
TELEGRAM

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ACTION STR-18

3899 EAP2360

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3499 EAP2360

INFO OCT-01 CH-01 EP-02 P-01 RA-01 EAP-04 012 A2 W0  
INFO LOG-00 AOS-00 AIO-00 AIT-01 CIAE-00 AMAC-01 CIME-00  
DOGE-00 EAP-00 EB-00 EXIM-06 E-01 FAN-03 H-01  
INRE-00 INR-02 IO-10 ITC-01 JUSE-00 LAN-04 NSAE-00  
OIC-02 OMB-01 OPIC-00 SIL-00 SP-00 STRE-00 TRSE-00  
USIC-00 /075W

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P 140931Z FEB 91

FM AMEMBASSY BEIJING

TO SECSTATE WASHDC PRIORITY 9379

INFO RUCPOC/USDOC WASHDC

AMCONSUL GUANGZHOU

AMCONSUL SHANGHAI

AMCONSUL SHENYANG

AMMISSION GENEVA 3071

AMEMBASSY TOKYO

ATTY TAIPEI 3787

AMCONSUL HONGKONG POUCH

United States Department of State  
Office of FOI, Privacy, & Classification Review  
Review Authority: SCHRAEDER, ROGER  
Date: 04/26/94  
Case ID: 9800072

LIMITED OFFICIAL USE BEIJING 04560

USDOC FOR 4128/IEP/EAP/OPRCHN/QVNTSHAN-LUCYK

GENEVA FOR USTR

DEPARTMENT PASS ELECTRONICALLY TO USTR FOR MASSEY

E.O. 12336: N/A

TAGS: ETRD, CH

SUBJECT: AUST MASSEY'S VISIT TO BEIJING: TRANSPARENCY OF  
CHINA'S TRADE SYSTEM

1. THE TRANSPARENCY OF CHINA'S TRADE SYSTEM IS ONE AREA  
THAT WE EXPECT AUST MASSEY WILL RAISE DURING HIS  
UPCOMING VISIT TO BEIJING. OUR THOUGHTS ON THIS ISSUE  
ARE AS FOLLOWS.

2. LACK OF TRANSPARENCY IS ONE OF THE BIGGEST PROBLEMS  
FACING US EXPORTERS IN CHINA. THIS PROBLEM EXISTS AT  
ALL LEVELS OF GOVERNMENT AND EXTENDS TO DEALINGS WITH  
FOREIGN TRADE ENTERPRISES (FTE) AS WELL. CHINESE  
OFFICIALS HAVE TOLD US THAT PROMULGATION LAST YEAR OF AN  
ADMINISTRATIVE PROCEDURES LAW, WHICH PERMITS GOVERNMENT  
OFFICIALS TO BE SUED, WILL RESULT IN GREATER  
TRANSPARENCY BECAUSE OFFICIALS WILL BE VULNERABLE TO  
SUITS BASED ON ACTIONS THEY TOOK PURSUANT TO  
UNPUBLISHED REGULATIONS. HOWEVER, WE HAVE NOT NOTED  
ANY INCREASE IN TRANSPARENCY IN RECENT MONTHS.

3. IN ADDITION TO LACK OF TRANSPARENCY FOR EXISTING  
LAWS AND REGULATIONS, THE LAW/REGULATION MAKING PROCESS  
IN MOST CASES ALSO REMAINS OPAQUE TO US BUSINESS AND  
GOVERNMENT REPRESENTATIVES. THE FOLLOWING ARE SPECIFIC  
EXAMPLES WHERE LACK OF TRANSPARENCY IS A PARTICULAR  
PROBLEM:

4. TRADE REFORM: IN 1988, CHINA ADOPTED AN EXTENSIVE  
PACKAGE OF TRADE REFORMS. THESE REFORMS ALTERED THE  
RELATIONSHIP BETWEEN THE CENTRAL GOVERNMENT AND THE

PROVINCES. FTE'S RIGHTS AND RESPONSIBILITIES WERE  
EXTENSIVELY MODIFIED. IN ALL, TWENTY-THREE SEPARATE  
REFORMS WERE ADOPTED. THESE REFORMS HAVE NEVER BEEN  
PUBLISHED. THIS IS ONLY A SMALL PART OF THE BODY OF

FOREIGN TRADE REGULATIONS TO WHICH WE HAVE NO ACCESS. —  
THE CENTRAL GOVERNMENT ISSUES A STEADY STREAM OF  
DIRECTIVES TO SUBORDINATE GOVERNMENTAL UNITS AND FTE'S  
THAT AFFECT WHAT CHINA CAN IMPORT AND BY WHOM. THESE  
DIRECTIVES USUALLY REMAIN NEIBU (NOT FOR RELEASE TO  
FOREIGNERS).

5. THE FOREIGN TRADE PLAN: EVERY FALL, BEIJING  
CONDUCTS AN ANNUAL TRADE CONFERENCE THAT DETERMINES MORE  
THAN HALF OF WHAT CHINA WILL IMPORT THE FOLLOWING YEAR.  
FOR A WIDE RANGE OF PRODUCTS, THE PLAN SETS ANNUAL  
IMPORT QUOTAS. IF PLANNERS DETERMINE THAT CHINESE  
DOMESTIC PRODUCTION IS SUFFICIENT, AN IMPORT QUOTA WILL  
BE SET AT ZERO. THE IMPORT PLAN IS A VERY CLOSELY HELD  
DOCUMENT. BEIJING REFUSES TO REVEAL ITS CONTENTS EVEN  
AFTER THE FACT.

6. MAJOR PROJECT INFORMATION: THE ANNUAL AND FIVE-YEAR  
PLANS ALSO DETERMINE A LARGE PORTION OF CHINA'S FIXED  
INVESTMENT PROJECTS. INFORMATION REGARDING THESE  
PROJECTS IS OFTEN UNAVAILABLE TO US FIRMS. IMPORTS  
REQUIRED FOR THESE PROJECTS ARE SELDOM TENDERED FOR  
BIDS. INSTEAD, THE CHINESE FTE'S NEGOTIATE DIRECTLY  
WITH SELECTED SUPPLIERS FOR THE REQUIRED EQUIPMENT. Q WE  
HAVE NO EVIDENCE THAT US FIRMS ARE SYSTEMATICALLY  
DISCRIMINATED AGAINST IN THIS PROCESS, BUT IT IS A FACT  
OF LIFE THAT THE JAPANESE ARE BETTER AT OPERATING IN

THIS OPAQUE ENVIRONMENT THAN AMERICANS.

7. TEXTILE TRANSHIPMENTS: THE CHINESE CLAIM TO HAVE  
ISSUED NEW REGULATIONS AIMED AT CONTROLLING THIS  
PROBLEM. WE HAVE REQUESTED A COPY OF THESE REGULATIONS,  
SO FAR WITH NO SUCCESS.

8. PAY CAPS: RUMORS HAVE BEEN AROUND FOR OVER A YEAR  
THAT MINIMUM/MAXIMUM CAPS ON CHINESE EMPLOYEE SALARIES  
HAVE BEEN ESTABLISHED AND THAT AN INTERNAL USE DOCUMENT  
TO THIS EFFECT HAD BEEN ISSUED. WE HAD UNOFFICIAL  
CONFIRMATION OF THIS IN SHANGHAI LAST YEAR, AND BEIJING  
CITY AUTHORITIES RECENTLY INFORMED JV MANAGERS THAT THE  
CAPS DO IN FACT EXIST, A THOROUGH ACCOUNT OF THE

RESTRICTIONS AND A COST OF THE REGULATION, HOWEVER,  
REMAIN UNAVAILABLE.

9. INVESTMENT PRIORITY AND APPROVAL GUIDELINES: Q  
— HAVE KNOWN FOR SOME TIME THAT THE CHINESE GOVERNMENT HAS  
A VERY DETAILED LIST OF THE KINDS OF INVESTMENTS THAT IT  
WILL APPROVE. OTHER THAN DISCUSSING IN GENERAL TERMS  
WHAT IT LIKES (HIGH TECH, EXPORT-ORIENTED,  
INFRASTRUCTURE) AND DOES NOT LIKE ("NON-PRODUCTIVE"  
INVESTMENTS, ENTERPRISES TARGETING THE DOMESTIC MARKET),  
THE AUTHORITIES HAVE NOT BEEN WILLING TO GO INTO GREATER  
DETAIL ABOUT ITS PREFERENCES, WHICH GOVERN THE APPROVAL  
PROCESS, NOR PROVIDE COPIES OF THE RELEVANT DETAILED  
REGULATIONS.

10. TALKING POINTS

Q CHINA'S TRADE SYSTEM IS AMONG THE WORLD'S LEAST  
TRANSPARENT. WE BELIEVE THIS IS A MAJOR REASON FOR THE  
LOW LEVEL OF US EXPORTS TO CHINA.

Q WE LACK BASIC INFORMATION TO DETERMINE THE TRADE  
BARRIERS WE FACE IN CHINA. MOST OF CHINA'S TRADE LAW  
AND REGULATIONS REMAIN NEIBU.

FOIA Exemptions  
PA Exemptions  
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DECLASSIFIED  
IN PART  
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DO NOT  
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8 THE ANNUAL TRADE PLAN HAS NEVER BEEN RELEASED, EVEN AFTER THE FACT. THIS PLAN DETERMINES MOST OF CHINA'S IMPORTS. WITHOUT ACCESS TO THIS INFORMATION WE HAVE NO WAY OF KNOWING WHETHER CHINA IS GIVING US PRODUCTS FAIR ACCESS TO THE CHINA MARKET.

9 US EXPORTERS FREQUENTLY COMPLAIN THAT CHINA'S IMPORT SUBSTITUTION RULES ARE A MAJOR PROTECTIONIST BARRIER. THESE RULES HAVE NEVER BEEN PUBLICLY RELEASED. THEY ARE SUBJECT TO FREQUENT CHANGE WITHOUT NOTIFICATION.

10 US FIRMS ALSO FIND IT DIFFICULT TO OBTAIN ADEQUATE INFORMATION ABOUT MAJOR INVESTMENT PROJECTS IN CHINA. THE JAPANESE HAVE DEVELOPED A NETWORK OF RELATIONSHIPS WITH CHINESE IMPORTERS THAT WORKS TO THE DISADVANTAGE OF U.S. FIRMS. LILLEY

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